

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

REGINALD EDWIN BOSSIER

PLAINTIFF

V.

CIVIL ACTION NO. 1:08cv408-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

ORDER

The only issue raised in Defendant's [172] Motion to Amend Pretrial Order is whether Defendant may add a may call witness omitted from the [171] Pretrial Order. Plaintiff [176] objects to this request.

Defendant's explanation for the omission is unintentional oversight, and a review of the record does not suggest otherwise. Plaintiff relies on the Magistrate Judge's [137] order denying Defendant's [117] motion to disqualify this may call witness, who is one of Plaintiff's counsel of record. However, that order deals solely with disqualification and did not address admissibility of testimony that Defendant may attempt to elicit from this witness.

Allowing Defendant to add a may call witness to the pretrial order is not the same as determining whether Defendant will be allowed to call the witness at trial or if any testimony the witness may give is admissible. The Court will make those rulings at the appropriate time.

Manifest injustice results from the refusal to modify the Pretrial Order by the mere addition of a may call witness. Fed. R. Civ. P. 16(e). Further, since this witness was identified previously in discovery, Plaintiff suffers no prejudice by this modification.

Accordingly, **IT IS ORDERED:**

The [172] Motion to Amend [171] Pretrial Order is **GRANTED**;

It is unnecessary to submit another Pretrial Order, and paragraph 15. of the [171] Pretrial Order is amended to reflect Stanton J. Fountain, Jr., Esq., 963 Howard Avenue, Biloxi, MS 39530, as a witness who may be called at trial by the Defendant;

SO ORDERED this the 23rd day of October, 2009.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE